Citizenship and Accountability of Government: An Islamic Perspective (Fundamental Rights and Liberties in Islam series). By Mohammad Hashim Kamali. Cambridge: Islamic Texts Society, 2011. Pp. 321. ISBN: 978-1903682616. $34.95.

Recent events in the Middle East, as well as the financial crisis that has gripped so much of the world, have made the questions of citizenship and government accountability particularly timely. The initial successes of Islamist parties in the Arab Spring raise the question of how these issues are treated in Islamic law. Professor Mohammad Hashim Kamali continues his prolific publications by addressing these subjects in this seventh volume of the Fundamental Rights and Liberties in Islam Series.

Kamali begins in Chapter 1 with a discussion of freedom of movement, covering topics as varied as the question of hijra, travel in search of (religious) knowledge, social visits, clear and safe passage (both within and across borders), *ḥijāb* and the freedom of movement of women, imprisonment, and the presence of non-Muslims in the Hijaz. He acknowledges that framing these topics under the rubric of freedom of movement differs from the classical *fiqh* categorizations but holds that they are integral to human dignity and self-expression, which are in turn of great importance in Islam. The chapter opens with a presentation of evidence from the Qur'ān and Sunna, interpreted by the author to support his argument for a general and broad freedom of movement in Islam. The subject of movement comprises the questions of when one must move (e.g., Ḥajj) or should move (e.g., advancement of knowledge) and when one must or should not. Accordingly, hijra is treated first; the discussion of whether this obligation is ongoing, and if so in what form, is relevant and interesting. Unsurprisingly, he takes the position that living in the U.S. or Europe is not merely permissible, but recommended or obligatory for purposes of obtaining knowledge as well as propagation of the faith. He briefly addresses the complexity and subtlety of the issues faced by Muslims living in Western countries such as the United States. Lastly, Kamali sets limits upon movement based on considerations of safety, security, privacy, and the general objectives (*maqāṣid*) of the Sharī'a. Such cases, according to Kamali, include espionage, banishment and imprisonment, and the presence of non-Muslims in the Hijaz.

Chapter 2 tackles the subject of citizenship, a topic Kamali contends is underdeveloped in Islamic law because it is a recent development. The existence of the nation state is an assumption on which Kamali's jurisprudence is based—not because of its validity or merit but in recognition of reality. He finds little in the original sources of the Sharī'a at odds with the notion of citizenship, except its "ultra-nationalistic" manifestations, which conflict with basic Islamic principles of equality and justice. Kamali further, and briefly, notes that the historic experience of citizenship generally has not served the purpose of providing common, equal rights. The author proposes a conception of citizenship in Islamic law through a reading of the Qur'ān and Sunna that centrally emphasizes human dignity and sanctity as well as the unity of the Muslim community of faith (the *umma*). Women and persons of faiths other than Islam (each category is treated in its own subsection) have the right to be full-fledged citizens, Kamali explains. The author laments that Muslims are now divided by borders as a

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consequence of colonialism; their identities are a complex interplay of religion, political framework, and natural homeland. Muslim governments are, moreover, criticized for constructing and implementing definitions of citizenship disrespectful of the aforementioned religious-based unity. Kamali concludes his discussion of *dhimma, jizya*, and other classical institutions based on religious distinctions by dismissing them as inapplicable in the modern world. Likewise, the distinction between *dār al-ḥarb* and *dār al-islām* is discarded as no longer in the best interests of Muslims. Kamali then turns to the rights of citizens, vesting in them the rights of nomination, election, consultation, criticism, and disobedience, as well as the right to basic necessities. Of course, along with rights come a set of citizens' duties that Kamali lays out: obedience and assistance to the government.

The third and final chapter of this work discusses accountability. Kamali describes this notion—*muḥāsaba*—as fundamental to the moral and legal ethos of Islam. It is exercised over the government both by God and by the people (or *umma*, as locus of authority), by virtue of their having appointed the ruler(s). Kamali presents a summary of early views on the subject—particularly those of the Prophet Muḥammad and his Companions. Added to this notion are (i) the right of *shūrā*, (ii) the principles of *ḥisba* (accountability and oversight) and *naṣīḥa* (counsel), and (iii) the right of complaint (i.e., to criticize government), all of which serve as means of enabling, encouraging, and implementing governmental accountability, especially when formally institutionalized. Kamali then devotes several pages to reminding rulers of their moral duties as rulers with respect to corruption, bribery, and the misuse of public funds. He sets forth the foundation and primary legal criteria of government accountability and positions the judiciary as a supervisory and overriding force in government. The always-thorny issue of the limits of obedience is also treated by Kamali.

Kamali's work provides an abundance of information on a number of subjects that are of both theoretical importance and practical consequence today. His assumption and tolerance of the presence of the nation state, despite what he considers its inconsistencies with Islam, demonstrates his objective of applying Islamic law and morality to current realities in a practical fashion. He does not, however, propose any explanation of why the historic experience of citizenship has failed to provide equal and common rights. In nearly every case, Kamali helpfully positions classical jurists and their opinions alongside contemporary ones. At times, though, it becomes unclear which of the two he is discussing; for instance, Kamali states that the Prophet did not require the Islamic faith as a precondition of citizenship, ignoring his earlier explanation that citizenship was a much later construct. In a few instances he appears to read contemporary legal concepts or definitions into the past, as, for example, when he writes, "The wife, under the *fiqh* rules, automatically acquires the citizenship of the country of her husband. Thus if a non-Muslim alien woman marries a Muslim or even a non-Muslim citizen of the Muslim state, she becomes the citizen of that state" (p. 112). To which *fiqh* rules is the author referring? Or is Kamali in fact proposing what "the *fiqh*" should be? This should have been made clear.

Kamali's argument that the assumption of an ongoing state of war between Muslim and non-Muslim nations—and hence the division of the world into *dār al-ḥarb* and *dār al-islām*—is textually unsound would have been better argued on the grounds of the descriptive inaccuracy of such an assumption. The original categorization was the consequence of human (juristic) assessment of facts on the ground, rather than of textual prescription.

Kamali's periodic integration of Islamic spirituality (e.g., spiritual hijra and *muḥāsaba* or accountability at the individual level) into a discourse of law and constitutional jurisprudence is welcome, and more of the same would have been appreciated. For example, this perspective would have been relevant to the discussion of political candidacy and campaigning in light of notions of humility, modesty, and pride. Kamali's absolute pronouncement that it is difficult today to find suitable political candidates is unsupported.

Some might criticize Kamali for failing to address his subject from a historical perspective and for conflating classical, pre-modern and modern materials. But this is not so, as such a criticism effectively renders Islamic law an antiquarian display. Kamali's is a work of constructive law, as much as his seminal *Principles of Islamic Jurisprudence* is a work of—and not merely about—*uṣūl al-fiqh*. *Citizenship and Accountability* is a foundational volume that will in the future stimulate a more contextualized examination, assessment, and application of the principles and norms it proposes. At the same time, however, several highly relevant issues meriting treatment from an Islamic legal perspective receive limited or no attention here, namely, the role of media in (mis)shaping public opinion (both of candidates and of law), and the negative impact of lobbying by business interests upon democratic processes. Lessons learned from non-Muslim-majority democracies are relevant to the Islamic discourse.

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